

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

DANNY MANZANARES,

Plaintiff,

vs.

No. CIV 04-270 JP/LFG

CITY OF ALBUQUERQUE

Defendant.

ORDER

On September 4, 2009, Plaintiff Danny Manzanares filed Amended Plaintiff's Motion to Rescind Judgment and Reopen Case (Doc. No. 53).¹ On December 7, 2009 through December 11, 2009, the Court held a jury trial to determine damages in Plaintiff's companion case *Manzanares v. Higdon*, Civ. No. 05-0095. On December 11, 2009 the jury returned a verdict in that case awarding Plaintiff, Danny Manzanares, \$50,384 in compensatory damages and \$150,000 in punitive damages against Defendant, Sean Higdon. The Court notes that the conduct and harm that served as the basis for Plaintiff's recovery of damages in Civ. No. 05-0095 is the same conduct and harm that Plaintiff alleges in this case. Thus, because Plaintiff does not allege damages independent of those for which he has already had a judgment entered in his favor, any potential recovery in this case would necessarily be duplicative, and therefore impermissible. *See EEOC v. Waffle House, Inc.*, 534 U.S. 279, 297 (2002)(noting that "it goes

¹ Plaintiff had earlier filed in error Plaintiff's Unopposed Motion to Rescind Judgment and Reopen Case (Doc. No. 52) based upon Plaintiff's counsel's mistaken belief that the City did not oppose Plaintiff's motion. Plaintiff's amended motion therefore reflects the City's opposition. However, Plaintiff's counsel did not take any steps to withdraw the mistakenly filed motion, and that motion, therefore, still shows as pending before the Court. Thus, to avoid any confusion, the Court advises the parties that this Order will apply to both versions of the motion.

without saying that courts can and should preclude double recovery by an individual.”).

Moreover, City of Albuquerque, the Defendant in this case, will be responsible for paying the Judgment (Doc. No. 153, Civ. No. 05-0095) entered in favor of Danny Manzanares against Sean Higdon. Accordingly, Plaintiff’s motions to reopen this case have been rendered moot by the judgment entered in favor of Plaintiff in the companion case, and the Court finds that Plaintiff’s two motions to reopen this case should be denied on that basis.

IT IS THEREFORE ORDERED THAT Plaintiff’s Unopposed Motion to Rescind Judgment and Reopen Case (Doc. No. 52) and Amended Plaintiff’s Motion to Rescind Judgment and Reopen Case (Doc. No. 53) are DENIED.



SENIOR UNITED STATES DISTRICT JUDGE